

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

POLARIS IMAGES CORPORATION,

Plaintiff,

- against -

BOSTON GLOBE MEDIA PARTNERS, LLC,

Defendant.

Docket No. 1:18-cv-6661

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Polaris Images Corporation (“Polaris” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant Boston Globe Media Partners, LLC. (“Boston Globe” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of NFL football player Aaron Hernandez’s pregnant wife Shayanna Jenkins. Accordingly, Polaris seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Polaris is an independent photo agency that represent content owners around the world. Polaris has exclusive relationships with some of its contributors. Polaris has a place of business at 259 West 30th Street, 14th Floor, New York, New York 10001.

6. Upon information and belief, Boston Globe is a foreign limited liability company duly organized and existing under the laws of the State of Massachusetts, with a place of business at 135 Morrissey Boulevard, Boston, MA 02125. At all times material, hereto, Boston Globe has owned and operated websites at the URL: www.BostonGlobe.com and www.Boston.com (the “Websites”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Enid Ricci, professional photographer, who has an exclusive licensing agreement with Polaris, owns the copyright to the photograph of NFL football player Aaron Hernandez’s pregnant wife Shayanna Jenkins (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Polaris is Enid Ricci’s exclusive licensing agent.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-104-176 and titled “05_22_2018 (280).jpg.” See Exhibit B.

B. Defendant’s Infringing Activities

10. On May 23, 2018, Boston Globe ran an article entitled *Shayanna Jenkins Hernandez announces she’s expecting a baby*. See URL: <https://www.boston.com/news/aaron-hernandez/2018/05/23/shayanna-jenkins-hernandez-baby>. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit C.

11. On June 25, 2018, Boston Globe ran another article entitled *Aaron Hernandez's former fiancée has a baby*. See URL: <https://www.bostonglobe.com/lifestyle/names/2018/06/25/aaron-hernandez-former-fiancee-has-baby/1i8tcTumkq0pIzfGCrkYZL/story.html>. The article prominently featured the Photograph on Boston's Globe's computer servers. Screen shots of the article with the Photograph are attached hereto as Exhibit D.

12. Boston Globe did not license the Photograph from Plaintiff for its articles, nor did Boston Globe have Plaintiff's permission or consent to publish the Photograph on its Websites.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST BOSTON GLOBE)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Boston Globe infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Websites. Boston Globe is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Boston Globe be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded its costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 1203(b);
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
July 24, 2018

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